

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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Edward Loren Peel,) C. A. No. 2:07-2876-GRA-RSC
)
 Plaintiff,)
)
 -versus-) **REPORT AND RECOMMENDATION**
)
Sheriff James R. Metts,)
)
 Defendant.)
)

On August 21, 2007, the plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983, and he was Ordered at that time to "keep the Clerk of Court advised in writing (Post Office Box 835, Charleston, South Carolina 29201) if your address changes for any reason . . . If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline . . . your case may be dismissed for violating this order." (Emphasis in original). On September 17, 2007, the envelope containing this order was returned marked "Undeliverable - No Longer Here". On October 4, 2007, the plaintiff called the Clerk's Office to advise that he was no longer at the Lexington County Detention Center. The plaintiff gave his current address as 3941 Charleston Highway, No. 74, West Columbia, SC 29172. Thereafter the court's order of September 5, 2007, was re-mailed to the plaintiff at this new address.

On April 3, 2008, the defendant filed a Motion for Summary Judgment. On April 7, 2008, a Roseboro Order was mailed to the plaintiff by the court. Despite this explanation, the plaintiff elected not to respond to the motion.

The court filed a second order on May 15, 2008, giving the plaintiff an additional ten (10) days in which to file his response to the defendant's motion for summary judgment. This order was mailed to the plaintiff's last known address (3941 Charleston Highway, No. 74, West Columbia, SC 29172). The envelope containing this order was returned to the court on May 22, 2008, marked "Return to Sender - No such Number - Unable to Forward".

Based on the plaintiff's failure to respond to the motion for summary judgment and his failure to keep the court advised of his address, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution and for failure to comply with the court's order to keep the court advised of his current mailing address.

Respectfully submitted,



Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

June 9, 2008

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).